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9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-228**

12 **KRISTI LYNN PASCOE**  
13 **801 West Covina Blvd., Spc. 144**  
14 **San Dimas, CA 91773**

**A C C U S A T I O N**

15 **17 Fig Tree Drive**  
16 **Canning Vale, WA 6155**  
**Australia**

17 **Registered Nurse License No. 638725**

18 Respondent.

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20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN, (Complainant) brings this Accusation solely in her  
23 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
24 of Consumer Affairs.

25 2. On or about June 18, 2004, the Board of Registered Nursing issued Registered Nurse  
26 License Number 638725 to Kristi Lynn Pascoe (Respondent). The Registered Nurse License  
27 expired on February 29, 2008, and has not been renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

## STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

....

7. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

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(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

....

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

8. Health and Safety Code section 11350, subdivision (a) states:

Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.

### COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

### DRUG

10. Oxycodone/APAP, also known by the brand name Percocet, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(N), and is a dangerous drug pursuant to Business & Professions Code section 4022.

11. Tramadol, a narcotic-like pain reliever, is a dangerous drug pursuant to Business & Professions Code section 4022.

12. Vicodin, a brand name for acetaminophen and hydrocodone bitartrate, is a Schedule III controlled substance as designated by Health and Safety Code Section 11056, and is a dangerous drug pursuant to Business and Professions Code section 4022.

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**FACTS**

13. Respondent was employed as a registered nurse at Sonoma Valley Hospital (hospital) from October 6, 2004, until she was terminated on May 1, 2006.

14. On or about November 10, 2005, the hospital filed a complaint with the Board alleging Respondent diverted the controlled substance oxycodone/APAP from the hospital's Pyxis Medstation (Pyxis)<sup>1</sup> on November 3, 4, and 5, 2005. The complaint stated that on those dates, Respondent removed a total of eleven (11) oxycodone/APAP tablets from Pyxis; seven (7) tablets were charted as having been administered to patients, four (4) were not charted or accounted for, and one patient stated that she only received one (1) tablet upon discharge (instead of the two charted by Respondent).

15. As a result, Respondent was suspended from work. The Board referred Respondent to the MAXIMUS Diversion Program and Respondent enrolled in MAXIMUS on November 29, 2005. While enrolled in MAXIMUS, Respondent admitted that she had been taking Vicodin and Percet from her workplace by signing it out from patients whose physicians ordered the medication but who were receiving other forms of analgesia. By enrolling in MAXIMUS, Respondent agreed to submit copies of prescriptions for all prescription medications she was currently taking, agreed to abstain from the use of alcohol and all other mind-altering drugs, and agreed to submit to urine tests to monitor drug and alcohol usage. On February 14, 2007, Respondent was allowed return to nursing practice on a non-patient care basis. On April 17, 2007, Respondent's random body fluid test was positive for Tramadol. In addition, Respondent failed to submit prescriptions for the drugs she had reportedly been taking. On September 26, 2007 she was terminated from MAXIMUS for non-compliance and deemed a public risk.

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<sup>1</sup> Pyxis refers to an automated single-unit dose medication dispensing system that records information such as patient name, physician orders, the date and time medication was withdrawn, the name of the licensed individual who withdrew and administered the medication, the date and time and the witnesses to the wastage of unused or leftover medications. Respondent was given access to the hospital's Pyxis and regularly withdrew medications for administration to her assigned patients.

1           16. As a result of the hospital's complaint of diversion, the Board referred the matter to  
2 the Division of Investigation (DOI) on or about March 10, 2008. The results of the DOI  
3 investigation revealed the following discrepancies involving controlled substances:

4           PATIENT 3: Patient 3's physician ordered 1-2 oxycodone/APAP tablets every four  
5 hours as needed for pain. On November 3, 2005, at 1656 hours, Respondent withdrew two (2)  
6 oxycodone/APAP tablets from Pyxis, but failed to chart or otherwise account for the  
7 administration of the medication in the patient's Medication Administration Record (MAR) or  
8 nursing notes. On November 4, 2005, at 1405 hours, Respondent withdrew two (2)  
9 oxycodone/APAP tablets from Pyxis but failed to chart or otherwise account for the  
10 administration of the medication in the patient's Medication Administration Record (MAR) or  
11 nursing notes.

12           PATIENT 4: On November 4, 2005, at 1456 hours, Respondent withdrew two  
13 oxycodone/APAP tablets from Pyxis for Patient 4 but failed to chart or otherwise account for the  
14 administration of the medication in the patient's Medication Administration Record (MAR) or  
15 nursing notes.

16           17. On or about August 15, 2008, the DOI investigator spoke to Respondent via  
17 telephone from Respondent's residence in Australia. Respondent admitted that between  
18 November 3 and November 5, 2005, she diverted and consumed four oxycodone/APAP tablets  
19 from hospital patients. Respondent stated that she entered the Board's Diversion program, but  
20 was unable to complete the program because of financial hardship and because of the location of  
21 the meetings. Respondent stated that she moved to Australia with her husband and children and  
22 has no intention of returning to the United States.

#### 23           **FIRST CAUSE FOR DISCIPLINE**

##### 24           **(Unprofessional Conduct – Possession of a Controlled Substance)**

25           18. Respondent has subjected her license to disciplinary action under sections 2762,  
26 subdivision (a) of the Code in that on or about November 3, 2005 through November 5, 2005, as  
27 described in paragraphs 13-17, above, Respondent admitted she obtained the controlled  
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1 substances oxycodone/APAP and Vicodin for her personal use in violation of Health and Safety  
2 Code section 11350.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Falsify Hospital Records Pertaining to Controlled Substances)**

5 19. Respondent has subjected her license to disciplinary action under section 2762,  
6 subdivision (e) of the Code for unprofessional conduct in that on or about November 3, 2005  
7 through November 5, 2005, as described in paragraphs 13-17, Respondent removed  
8 oxycodone/APAP tablets from Pyxis and falsified hospital records by not properly accounting for  
9 either the administration or wastage of said controlled substances to cover-up said theft.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct – Use of a Dangerous Drug)**

12 20. Respondent has subjected her license to disciplinary action under section 2762,  
13 subdivision (b) of the Code for unprofessional conduct in that on or about April 17, 2007, while  
14 Respondent was a participant of the MAXIMUS Diversion Program, Respondent used a  
15 dangerous drug, Tramadol, to an extent or in a manner dangerous to herself or the public, or to the  
16 extent that such use impairs her ability to conduct with safety to the public the practice authorized  
17 by her license, as described in paragraph 15, above.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
20 and that following the hearing, the Board of Registered Nursing issue a decision:

21 1. Revoking or suspending Registered Nurse License Number 638725, issued to Kristi  
22 Lynn Pascoe;

23 2. Ordering Kristi Lynn Pascoe to pay the Board of Registered Nursing the reasonable  
24 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
25 Code section 125.3;

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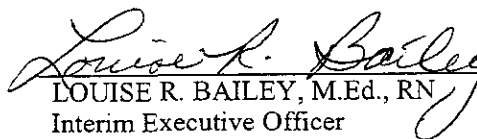
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3. Taking such other and further action as deemed necessary and proper.

DATED: 10/22/09

  
LOUISE R. BAILEY, M.Ed., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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